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Attorneys for Defendant  
BAY AREA CABLEVISION, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

BERNARD LOVE,

Plaintiff,

vs.

BAY AREA CABLEVISION, INC., a  
California corporation; Does 1 through 50,  
inclusive,

Defendants.

Case No. C0802012 JW

**NOTICE OF NON-OPPOSITION TO  
DEFENDANT BAY AREA  
CABLEVISION, INC.'S MOTION TO  
DISMISS PURSUANT TO FED. R. CIV.  
P. 12(B)(6)**

(Santa Clara County Superior Court  
Case No. 108CV103157)

Date: September 8, 2008  
Time: 9:00 a.m.  
Ctrm: 8

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1 TO THE CLERK OF THE COURT, ALL PARTIES AND THEIR COUNSEL OF  
2 RECORD:

3 Defendant Bay Area Cablevision, Inc. ("BAC") hereby advises the Court that  
4 Plaintiff Bernard Love ("Love") has not filed or served an opposition to BAC's Motion to  
5 Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) ("Motion").

6 BAC e-filed and served their Motion on June 23, 2008, and the hearing date was  
7 originally set for September 22, 2008. The Court later advanced the hearing date to  
8 September 8, 2008 (ECF # 24). Under the Northern District's Local Rules, "[a]ny  
9 opposition to a motion must be served and filed not less than 21 days before the hearing  
10 date." L.R. 7-3(a). And, pursuant to Local Rule 11-4(a), "[e]very member of the bar of  
11 this Court and any attorney permitted to practice in this Court under Civil L.R. 11 must ...  
12 (2) Comply with the Local Rules of this Court...."

13 Here, Love was required to file his opposition or statement of non-opposition to  
14 BAC's Motion on August 18, 2008, which is 21 days prior to the September 8, 2008  
15 hearing date. Love has not filed an opposition or statement of non-opposition, and the  
16 failure to file these papers may be treated as consent to granting a motion. *See, e.g.,*  
17 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995). Thus, this Court should grant BAC's  
18 Motion in its entirety.

19  
20 Dated: August 25, 2008

BRYAN CAVE LLP  
Gregory D. Trimarche  
Stephanie A. Blazewicz

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22 By: /s/ Gregory D. Trimarche  
23 Gregory D. Trimarche  
24 Attorneys for Defendant  
25 BAY AREA CABLEVISION, INC.  
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